IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11715 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AJAYSINH RAMSINH PARMAR

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 11715 of 2001

MS SUBHADRA G PATEL for Petitioner No. 1

MR SS PATEL, AGP, for Respondents No. 1-3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 06/02/2002

ORAL JUDGEMENT

1. District Magistrate, Rajkot, passed an order on the 24th October, 2001, in exercise of powers under Section 3(1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 ("PASA Act" for short), detaining the petitioner under the provisions of the said Act.

2. The detaining authority took into consideration six offences registered against the petitioner. The detaining authority considered the activities of the detenu as that of a bootlegger and observed that the petitioner is required to be immediately prevented from pursuing his activities, which are detrimental to public order. The authority also considered the possibility of resorting to less drastic remedies and came to conclusion that detention under PASA Act is the only remedy that can be resorted to.

3. The petitioner challenges the order of detention on various grounds. Ms. Patel, learned advocate appearing for the petitioner, has restricted her arguments to the ground that some of the documents in each of the registered offences supplied to the detenu are not legible and this has affected the right of the detenu of making an affective representation. She submitted that the petition may, therefore, be allowed.

4. Mr. Patel, learned Assistant Government Pleader, has opposed this petition.

5. Having regard to rival side contentions, this Court finds that some of the documents in respect of each of the registered offence supplied to the detenu are not legible. Learned Assistant Government Pleader also verified this aspect and concedes that this is factually correct. This has affected the right of the petitoner-detenu of making an effective representation enshrined under Article 22(5) of the Constitution of India. On this ground alone, the petition deserves to be allowed.

6. In the result, the petition is allowed. The impugned order of detention dated the 24th October, 2001, passed against the detenu is hereby quashed. The detenu-Ajaysinh Ramsinh Parmar is ordered to be set at liberty forthwith, if not required in any other matter. Rule is made absolute with no orders as to costs.

7. Direct service is permitted.

[A.L. DAVE, J.]

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